

Oct 03, 2019

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SAMUEL ERICK RICHARDSON,

Plaintiff,

v.

ACTING DIRECTOR SPARBER and
SPOKANE COUNTY DETENTION
SERVICES ADMINISTRATION &
STAFF,

Defendants.

NO: 2:19-CV-187-RMP

ORDER DENYING MOTION FOR
INJUNCTIVE RELIEF

Before the Court is Plaintiff's *pro se* "Motion to Order Show Cause for an [sic] Preliminary Injunction @ a Temporary Restraining Order," and his declaration, ECF No. 11. Specifically, Plaintiff seeks to enjoin his cell confinement of 22 hours per day and his restricted phone access of two hours per day at the Spokane County Jail. He also seeks to enjoin persons who are not named as Defendants to this action from issuing death threats, harassing and retaliating against him.

Plaintiff is currently housed at the Lincoln County Jail. ECF No. 13. His

1 request for injunctive relief against Defendants at the Spokane County Jail is
2 rendered moot by his transfer to another facility. *See Johnson v. Moore*, 948 F.2d
3 517, 519 (9th Cir. 1990); *Dilley v. Gunn*, 64 F.3d 1365, 1368 (9th Cir. 1995).

4 In accompanying and subsequent ex parte communications, Plaintiff
5 requests a transfer, acknowledges his transfer to another jail, and asks not to be
6 returned to the Spokane County Jail for any reason, claiming the conditions at that
7 facility “make defending [his] case unreasonably difficult.” ECF Nos. 12, 13 and
8 14. Plaintiff also states that he “fear[s] for [his] own life, safety, and wellbeing”
9 because of indirect statements allegedly made by correctional officers at the
10 Spokane County Jail. *Id.*

11 Plaintiff is advised that it is improper to correspond directly with a judicial
12 officer. If he wishes to make a request of the Court, he must do so in the form of a
13 motion which is properly noted for hearing as required by LCivR 7.1, Local Civil
14 Rules for the Eastern District of Washington.

15 Under the Prison Litigation Reform Act, 18 U.S.C. § 3626, a plaintiff is not
16 entitled to prospective relief unless a court enters the necessary findings required
17 by the Act:

18 The court shall not grant or approve any prospective relief unless the
19 court finds that such relief is narrowly drawn, extends no further than
20 necessary to correct the violation of a Federal right, and is the least
21 intrusive means necessary to correct the violation of the Federal right.
The court shall give substantial weight to any adverse impact on public
safety or the operation of a criminal justice system caused by the relief.

18 U.S.C. § 3626(a)(1)(A).

1 The purpose of preliminary injunctive relief is to preserve the status quo or
2 to prevent irreparable injury pending the resolution of the underlying claim. *Sierra*
3 *On-line, Inc. v. Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th Cir. 1984).

4 The same legal standard applies to an application for a Temporary
5 Restraining Order (“TRO”) and a motion for a preliminary injunction. *See*
6 *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir.
7 2001). To obtain a preliminary injunction, the moving party must show: (1) a
8 likelihood of success on the merits; (2) a likelihood of irreparable harm to the
9 moving party in the absence of preliminary relief; (3) that the balance of equities
10 tips in the moving party's favor; and (4) that an injunction is in the public interest.
11 *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). A TRO is “an
12 extraordinary remedy that may only be awarded upon a clear showing that the
13 plaintiff is entitled to such relief [.]” *Winter*, 555 U.S. at 22. The moving party
14 bears the burden of meeting all prongs of the *Winter* test. *Alliance for the Wild*
15 *Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011).

16 Here, Plaintiff has demonstrated neither a likelihood of success on the merits
17 nor that he will suffer irreparable harm in the absence of a TRO. As set forth in the
18 Order to Amend or Voluntarily Dismiss, his allegations are insufficient to state a
19 constitutional violation. His assertions of anticipated future harm are speculative.

20 At this time, **IT IS ORDERED** that Plaintiff’s “Motion to Order Show
21 Cause for an [sic] Preliminary Injunction @ a Temporary Restraining Order,” ECF

1 **No. 11, is DENIED.**

2 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order
3 and forward a copy to Plaintiff.

4 **DATED** October 3, 2019.

5 *s/ Rosanna Malouf Peterson*
6 ROSANNA MALOUF PETERSON
7 United States District Judge
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